



IOWA DEPARTMENT OF EDUCATION

EVERY STUDENT SUCCEEDS ACT – FOSTER CARE

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DEFINITIONS

Achieving Maximum Potential (AMP) – AMP is a youth-driven, statewide group that seeks to assist students who are currently in foster care or have exited the foster care system. AMP offers leadership opportunities and support to assist youth in becoming self-sufficient, independent adults. Their motto is “*Nothing about us, without us.*”

Area Education Agency (AEA) – Iowa has nine area education agencies or AEAs. AEAs are regional service agencies that provide school improvement services for students, families, teachers, administrators and their communities. The AEAs work as educational partners with public school districts and accredited private schools.

Best Interest - the decision made when local Department of Human Services (DHS) staff and the district of origin point of contact work collaboratively in determining whether it is in a child’s best interest to remain in his or her school of origin. The parties should take into consideration various factors, including the appropriateness of the current educational setting and proximity of placement.

Case Management – Department of Human Services (DHS) social casework with children to assess and identify individual and family strengths and needs, develop case permanency plans to provide appropriate supports and services, implement the case permanency plans, coordinate and monitor the provision of services, and evaluate client progress and the case. The DHS Case Manager for a child in Foster Care is also referred to as a Social Worker. When a juvenile court officer (JCO) places adjudicated delinquents in foster care, the JCO is responsible for case management.

Case Permanency Plan - For DHS child welfare cases, the plan is developed by DHS, the youth, the family, and other team members. The elements of the case plan include, but are not limited to:

- the child’s plan for permanency, which may include parental reunification, another planned permanent living arrangement, adoption, or guardianship;
- assessments of child’s and family’s strengths and needs;
- identification of services;
- health-related information and planning;
- the education stability plan and any other plans and information related to meeting the child’s educational needs;
- the treatment plan if applicable;
- safety information;
- visitation plans;
- the casework actions required to ensure the child’s needs; and
- transition planning for adulthood for youth age 14 and older.

Categorical eligibility – Federal law provides categorical eligibility for students in foster care. Categorical eligibility eliminates the requirement that households who already meet financial eligibility rules in one specified low-income program go through another financial eligibility determination. Examples of categorical eligibility for students in foster care are free/reduced lunches, fee waivers, waiver for participating in athletics, etc.

Child - either a person less than eighteen years of age (Iowa Code §232.2(5)) or a person eighteen or nineteen years of age who meets any of the following conditions: (1) Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma. (2) Is attending an instructional program leading to a high school equivalency diploma. (3) Has been identified as a child requiring special education.

Child in Need of Assistance (CINA) – a child adjudicated by juvenile court to be a Child in Need of Assistance. A child in need of assistance is an unmarried child whose parent/guardian/custodian has failed to provide for the child and exercise a reasonable degree of supervision. DHS has responsibility for care and placement when children are adjudicated as CINA.

Delinquent - a child adjudicated by juvenile court for having committed a delinquent act.

Department of Human Services (DHS) Social Worker - A child who enters foster care has a DHS social worker who is responsible for working with the child and family to select appropriate services and supports, including selection and monitoring of the education setting which is in the best interest of the child in foster care. DHS social workers are based in county offices in one of the DHS Service Areas.

DHS Point of Contact (POC): Each of the five DHS field Service Areas has an assigned POC whose role is to assist the DHS social worker in coordinating and collaborating with the LEA POC in best interest determinations, transportation arrangements, and other components of ESSA and Fostering Connections.

DHS Service Area - For the purpose of ESSA, one of five DHS regional administrative areas, each comprised of several contiguous counties: Western Service Area (WISA); Northern Service Area (NISA); Cedar Rapids Service Area (CRSA); Des Moines Service Area (DMSA); and Eastern Service Area (EISA)

District or School District - any public school corporation, whether in Iowa or in another jurisdiction. This includes any preschool program operated by the District, including statewide voluntary preschool program partnerships.

District Point of Contact (POC) - the district liaison whose role is to facilitate efficient communication and collaboration with the corresponding (state or local) child welfare agency, oversee the rights and protections for students in foster care under the law, identify best practices, and ensure effective implementation at the local educational agency level and with public charter schools.

Educational (School) Stability – ensures that students in foster care have the opportunity to achieve at the same high levels as their peers. These provisions emphasize the importance of limiting educational disruption by keeping children who move in foster care (due to entering the foster care system or changing placements) in their schools of origin, unless it is determined to be in their best interest.

Every Student Succeeds Act (ESSA) - the education act signed into law on December 10, 2015, by President Obama, reauthorizing the Elementary and Secondary Education Act (ESEA). Originally enacted in 1965 and last reauthorized as the No Child Left Behind Act in 2002, ESEA's mission is "to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education." ESSA is the first major overhaul of federal education law in over a decade. With the ESSA reauthorization ESEA now contains key protections for students in foster care to promote school stability and success, and required collaboration with child welfare partners.

Family Educational Rights and Privacy ACT (FERPA) – federal legislation in the United States that protects the privacy of students' personally identifiable information (PII). The act applies to all educational institutions that receive federal funds.

Family Team Decision-Making Meeting (FTDM) - a gathering of family members and extended family, friends, the DHS case manager, community professionals, and other interested people who, with the assistance of a Family Team Decision-Making Meeting Facilitator, plan to enhance the safety, permanency, and well-being of a child and family.

Foster Care - 24-hour substitute care for children placed away from their parents or guardians and for whom the child welfare agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, unlicensed relative and "suitable other" family homes, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made. Foster care does not include care provided in a family home through an informal arrangement for a period of 20 days or less. Also referred to as a child placed "out of home" or "in placement". The foster care setting may be referred to as "a placement", particularly when speaking of residential settings, such as foster group care.

Foster Group Care (FGC) - one service of the child welfare array of services that offers a safe and protective structured living environment for eligible youth who are considered unable to live in a Family situation due to social, emotional, developmental, or behavioral issues.

Fostering Connections - the Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351, which took effect October 7, 2008.

Foster Parent – is the primary caretaker of the child who provides for the direct care of the child/children in their home. The foster parent(s) are responsible for carrying out the goals of the foster care placement as prescribed in the case permanency plan.

Guardian ad Litem (GAL) – The "guardian ad litem" is a person appointed by the court to represent the best interest of the child in any judicial proceeding to which the child is a party. The same attorney may also serve as the child's attorney to defend the desires of the child.

Individualized Education Plan (IEP) – a plan or program developed to ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives specialized instruction and related services.

Individuals with Disabilities Education Act (IDEA) – Public Law 94-142 is federal legislation that was passed to ensure children with disabilities receive a free appropriate education (FAPE) that meets their unique needs. The IDEA requires that an IEP be written for each student with a disability receiving special education and related services.

Juvenile Shelter Care - a physically unrestricting facility used only for the shelter care of children. Typically considered a short-term placement until a more permanent living arrangement is possible.

Local Education Agency (LEA) - a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

Memorandum of Agreement (MOA) - an agreement between DHS and the LEA to specify roles and responsibilities of both parties to ensure education stability for Iowa children in foster care in accordance with the Every Student Succeeds Act of 2015 and the Fostering Connections Act of 2008.

Public School – any school directly supported in whole or in part by taxation and operated under the authority of the local school board.

Nonpublic School – any other school not considered a public school which is accredited pursuant to §256.11. A nonpublic school is established by an agency other than the state or a subdivision of the state, which is usually supported by private funds.

School of Origin - the school in which a child is enrolled at the time of placement in foster care, or in the case of a change in foster care placement, school the child was attending at the time of the placement change. An LEA must ensure that a child in foster care enrolls or remains in his or her school of origin unless a determination is made that it is not in the child's best interest.

Section 504 – a federal law that prohibits schools from discriminating against students with disabilities. Section 504 sets minimum standards for providing related services and aids to students with disabilities that substantially limits a major life activity and applies to elementary and secondary education, preschool and adult education, and private education. Section 504 provides reasonable accommodations, but is not specially designed instruction.

Supervised Apartment Living Foster Care (SAL) - the least restrictive type of Foster Care Placement in Iowa in which a child is either placed in his or her own apartment or in a "cluster" arrangement with other youth. DHS contractors provide life skills assessments and direct skills based services.

Trauma-Informed Approach/Practices – when caring for children in foster care, the incorporation of an understanding of trauma and traumatic experiences and the effect they can have. A trauma-informed approach can be implemented in any type of service setting or organization and is distinct from trauma-specific interventions or treatments that are designed specifically to address the consequences of trauma and to facilitate healing.

Transition Planning - DHS services, supports, activities and referrals to programs that assist children age 14 and older currently or formerly in foster care in acquiring skills and abilities necessary to transition to adulthood successfully. Transition planning is also required under IDEA and Title I, Part D.

Trauma-Informed Care - the incorporation of an understanding of trauma and traumatic experiences and the effect they can have on Children in Foster Care into the care and services provided to a Child.

Uninterrupted Scholars Act (USA) – is a federal law that amends FERPA and is intended to assist in the educational stability of children and youth in the foster care system. The USA amends FERPA to permit educational agencies and institutions to disclose a student's education records, without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access a student's case plan "when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student." Second, the USA also allows educational agencies and institutions to disclose a student's education records pursuant to a judicial order without requiring additional notice to the parent by the educational agency or institution in specified types of judicial proceedings in which a parent is involved.

Youth Transition Decision-Making Meeting (YTDM) - a youth-centered practice model and teaming approach that follows standards similar to that of Family Team Decision-Making (FTDM) Meetings and is offered to youth in foster care 14 years of age and older.

POINT OF CONTACT OVERVIEW:

At the local level, Local Education Agencies (LEA) must designate one person as the foster care *Point of Contact* (POC) when notified in writing by local child welfare agencies that they have done so. Iowa has collected the names of all LEA POCs and Department of Human Services (DHS) regional POCs and have posted them to the DE website at: <https://www.educateiowa.gov/education-children-foster-care>

The ESSA Non-Regulatory Guidance (U.S. Department of Education and U.S. Department of Health and Human Services, 2016) lists potential roles and responsibilities for state and local POCs. Duties for **state POCs** include, but are not limited to:

- coordinating with state child welfare agencies to develop and issue joint state guidance;
- facilitating data sharing consistent with privacy laws;
- monitoring LEAs to ensure compliance at the local level;
- developing and coordinating local transportation procedures (DE is creating guidance for transportation procedures, when there may be additional costs);
- developing a process for making best interest determinations and documenting those determinations;
- providing professional development opportunities; and
- providing technical assistance for LEA POCs and others regarding school stability and educational supports for children in foster care.

At the school district level, the LEA POCs serve as the primary contacts between children in care and school staff, district personnel, and other service providers. The Non-Regulatory Guidance also notes the persons appointed by each LEA must have the capacity and resources to guide implementation of the ESSA's requirements for children in foster care. Duties for **LEA POCs** could include, but are not limited to:

- coordinating with corresponding DHS POCs to implement ESSA's requirements;
- coordinating with local DHS to establish a process to notify LEAs when the child is placed in care or when a foster care placement change will occur;
- establishing a process for coordinating with LEAs, schools of origin and local DHS regarding best interest determinations;
- documenting best interest determinations;
- managing best interest decisions and transportation cost agreements;
- developing, coordinating, and ensuring implementation of written transportation procedures in collaboration with local DHS;
- following dispute resolution processes when issues arise;
- ensuring children are promptly transported to their school of origin even when there is a dispute regarding which agency will fund additional costs incurred and that the agency (or agencies) identified in the written transportation procedures pays any additional costs pending resolution of the disputes working with LEAs and school of origin and DHS to facilitate immediate enrollment and coordinate transportation services;
- facilitating records transfers including educational, medical and special education records;
- coordinating services so children in foster care can access a full range of educational services and supports;

- ensuring that children in foster care are enrolled in and regularly attending school;
- facilitating data sharing with the child welfare agencies consistent with the FERPA and other privacy laws and policies;
- providing training to LEA and DHS staff on children’s needs and relevant state and local policies; and
- informing parents, education decision makers, and community stakeholders about children’s rights (ABA Center on Children and the Law, Juvenile Law Center, Education Law Center, 2017).

Works Cited

ABA Center on Children and the Law, Juvenile Law Center, Education Law Center. (2017, January 18). *ABA Center on Children and the Law*. Retrieved from Legal Center for Foster Care & Education: http://fostercareandeducation.org/DesktopModules/Bring2mind/DMX/Download.aspx?portalid=0&EntryId=2080&Command=Core_Download

U.S. Department of Education and U.S. Department of Health and Human Services. (2016, July 23). *U.S. Department of Education Initiatives*. Retrieved from Students in Foster Care: <https://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf>

REMAINING IN SCHOOL OF ORIGIN; BEST INTEREST DETERMINATION

The Every Student Succeeds (ESSA) and the Fostering Connections Acts specifically require that “best interest” determinations be made when deciding whether a child should remain in the current school setting (school of origin) or move to a new school. While the presumption is that children remain in their school of origin, the decision for some children will be that it is in their best interest to be immediately enrolled in a new school. For best interest determination purposes, “school of origin” is the school in which the child was enrolled at the time the child was placed into foster care. If a child’s foster care placement changes while in foster care, the child’s school of origin is the school the child was attending at the time of the placement change. If a student is simultaneously attending both a public and a nonpublic school when they are placed in foster care or their foster care placement changes, the school of origin would be considered the public school. For example, if the student is attending the parochial high school and the local public school at the same time, the school of origin will be considered the public school when making a best interest determination. If a student is simultaneously attending two separate public schools when they are placed in foster care or their foster care placement changes, the school of origin would be the public school where the student is considered a resident student.

Before a child is placed in foster care, local DHS should contact the district of origin’s point of contact to inform them the child is being placed in foster care and to arrange a time to make a best interest determination. The best interest determination is a child specific, case-by-case determination of whether remaining in the school of origin is not the in the child’s best interest. The best interest determination shall be made prior to foster care placement, except in the case of an emergency removal. In the case of an emergency removal, the best interest determination shall be made within 5 business days of emergency foster care placement. In addition, the child shall remain in the child’s school of origin pending the outcome of the best interest determination, unless remaining in the school of origin would be detrimental to the child. In addition, changes in educational placement typically occur at the end of a semester or school year to allow the child a smooth transition between educational settings and to ensure the child receives credit for the courses taken. As a matter of best practice, the best interest determination should always be revisited at least ten school days before the end of a major grading period (trimester or semester) to ensure a smooth transition to another school if the decision indicates a change is needed.

Key Decision Making Partners:

In making the best interest determination, local DHS and the district of origin must collaborate to make a decision about whether it is not in the child’s best interest to remain in the child’s school of origin, in consultation with the child and other parties of interest. Key decision making partners could include, but are not limited to:

- 1) Child;
- 2) Child’s birth or adoptive parents (unless rights have been terminated);

- 3) Prior custodian;
- 4) School representative of district of origin;
- 5) School representative of district where child is placed in foster care;
- 6) Local DHS representative;
- 7) Juvenile court representative;
- 8) Guardian ad litem of the child;
- 9) Special education coordinator;
- 10) School social worker;
- 11) School counselor;
- 12) Individual selected by the child;
- 13) Area Education Agency representative;
- 14) Foster care placement representative;
- 15) Service worker; and
- 16) Any individual with information that informs the decision.

Factors in Best Interest Determination for School Placement:

As part of best interest decision, the district of origin and local DHS should consider all relevant factors and information to determine appropriate school placement, including whether it is or is not in the child's best interest to remain in the school of origin. Transportation cost shall not be considered in the best interest determination. Some factors to consider in making a best interest determination include:

- 1) Preference of the child;
- 2) Preference of the child's parents, education decision makers, or both;
- 3) Opinions of informed education or child welfare professionals;
- 4) Attachment to school, including meaningful relationships with peers and staff;
- 5) Meaningful relationships, if any, that the child might have at the proposed new school;
- 6) Placement of siblings;
- 7) School climate, including safety;
- 8) Availability and quality of services in the school to meet the child's educational and socioemotional needs;
- 9) History of school transfers and how they have affected the child;
- 10) Length of the one way commute to school (no longer than 75 minutes for children in secondary school and no longer than 60 minutes for all other children);
- 11) Special education services (ensuring compliance with the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, as well as relevant state statutes and rules);
- 12) ELL services (ensuring compliance with Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974 (EEOA), as well as relevant state statutes and rules);
- 13) Impact on child's ability to earn academic credit, proceed to the next grade, or graduate on time;
- 14) Expected length of the child's placement and the child's permanency plan;
- 15) The child's current academic, disciplinary, and attendance records;
- 16) Availability of comparable coursework in any potential receiving district;
- 17) Extracurricular activities in which the child participates (if a child changes schools because of a foster care placement change, the child is immediately eligible for interscholastic competition);
- 18) Proximity of the school of origin to other services the child needs;
- 19) Ability of the school to implement any required safety plan for the child, such as a court-ordered no-contact order; and
- 20) Presence of child's victims or perpetrators in the school environment.

Dispute Resolution Process:

If the district of origin and local DHS cannot agree on the child's best interest for school placement after making every effort to reach agreement, the district of origin and local DHS should review their MOA and any rules or guidelines provided by the Department of Education and the Department of Human Services for support in resolving their dispute. If the disagreement regarding school placement continues, local DHS is considered the final decision maker in the best interest determination for school placement unless federal or state law dictates otherwise. Local DHS is uniquely positioned to assess vital non-educational factors such as safety, sibling placements, the child's permanency goal, and the other

components of the case plan. If local DHS determines the child's safety would be compromised by remaining in the child's school of origin, local DHS' decision stands pending the outcome of the dispute.

If the district of origin still does not agree with the local DHS determination for the child's best interest for school placement, a written request should be immediately submitted to the state level point of contact (State POC) at the Department of Education for review of the best interest determination documentation. The written request should include documentation of the factors considered in determining the school placement, which include:

- The team's determination for school placement;
- The participants involved;
- Whether each participant agreed or disagreed with the team's determination;
- The reasons for agreement or disagreement;
- Any additional information pertinent to the dispute; and
- Efforts made to resolve the dispute.

After receiving a request for review, the State POCs from the Department of Education and the Department of Human Services shall review the best interest determination documentation and return a resolution to the dispute within five business days of receipt of the request. During the dispute resolution process, the student should remain in the school in which he or she was enrolled at the time of placement.

ARRANGING TRANSPORTATION FOR CHILDREN IN FOSTER CARE

As part of the implementation of the Educational Stability Provisions of the Every Student Succeeds Act (ESSA) and the *Fostering Connections to Success and Increasing Adoptions Act of 2008*, the district of origin and local DHS entered into a memorandum of agreement. The information below provides the framework to ensure all children placed in foster care, who are eligible to be transported from their foster placement to their school of origin, receive the needed transportation services in an efficient and timely manner.

The district of origin and local DHS must collaborate to establish the most cost effective means of transportation available, which could include school transportation vehicles, public or regional transportation, and/or voluntary or paid assistance from foster care providers or family members of the child. In determining whether transportation is "cost effective," the district of origin must consider the reasonableness of those costs. If a more costly means of transportation is selected, the district of origin must be able to provide support for why that means of transportation was chosen. When selecting a means of transportation, the district of origin should consider a variety of factors, including cost, distance, and length of travel, as well as whether the means of transportation is developmentally appropriate for the child. In addition, it is important for the district of origin and local DHS to engage the foster care provider in the discussions about the means of transportation.

The district of origin should also consider whether transportation can be provided for minimal or no additional costs. Examples of no-cost or low-cost options for transportation that the district of origin and local DHS could explore include whether:

- The child may be dropped off at a school bus stop near the existing transportation system of the school of origin;
- Public transportation options exist, if the child is of an appropriate age and has or is able to acquire the skills to utilize such options;
- The foster care provider or other individual(s) are willing and able to safely transport the child to school (the district of origin should get prior approval from the local DHS and the local DHS should follow DHS protocols);
- There are pre-existing bus routes or stops close to the foster care placement that cross district boundaries; and
- The child is already eligible for transportation covered by other programs.

After determining a means of transportation, it is the district of origin's responsibility to coordinate the establishment of the transportation route for the child between the school of origin and the foster care placement. The transportation route created must use existing transportation routes and arrangements, to the extent available and practicable. In addition, the district of origin must consider the needs of children in foster care when establishing transportation routes and arrangements and cooperate with other districts to ensure joint compliance with this requirement.

Districts must waive any local policy, practice, or procedure that would serve as a barrier to providing transportation, such as restrictions on its vehicles entering other districts' boundaries or other district vehicles entering its boundaries. If a transportation dispute arises between the district of origin and local DHS or between districts, the district of origin has

financial responsibility to provide transportation from the child's foster care placement to the school of origin until the dispute is resolved.

The district of origin shall track those costs and report them to their respective state level point of contact for review, in a format and with supporting documentation as directed by the state level point of contact. The transportation costs considered **additional transportation costs shall be defined by the Department of Education and the Department of Human Services**. In addition, the process of tracking and reporting additional transportation costs shall be established in time and manner by the Department of Education and the Department of Human Services.

As part of making a best interest determination of whether to keep the child in their school of origin, the district of origin and local DHS should consider the riding time, under normal conditions, from the designated foster care placement location and the school of origin. Transportation riding times exceeding 75 minutes for secondary students and 60 minutes for elementary should be viewed as not being in the best interest of the child. Iowa Administrative Code rule 281 – 43.1(3) Consult the DHS case manager or others to explore possible additional considerations, such as previous experience with transportation, development of the child, or whether the child's current circumstances would impact the acceptable time in transport

Below are six transportation classifications for providing and arranging transportation for children in foster care to remain in their school of origin.

1) CHILDREN NOT REQUIRED TO BE TRANSPORTED AFTER FOSTER CARE PLACEMENT ENTRY/CHANGE

There are certain situations when the district of origin and local DHS are not required to provide transportation for a child placed or entering foster care. If the foster care placement is within a certain distance from the school of origin, the child will not receive transportation to the school of origin. Under Iowa Code § 285.1, the requirement to provide transportation to the school of origin for a child placed in foster care does not apply when:

1. An elementary student lives less than two miles from the school of origin; or
2. A secondary student lives less than three miles from the school of origin.

When a best interest determination is made to change the school of attendance to a school other than the school of origin, transportation between the new school and the foster care placement is not required unless some other provision of school transportation rules require such transportation.

When a child placed in foster care is exited from the foster care system, the school district should consider allowing the child to remain in school until it is deemed to be in the best interest of the child to change schools. A factor to consider in making this decision is how the educational calendars align between the two schools. Changes in educational placement typically occur at the end of a semester or school year to allow the child a smooth transition between educational settings and to ensure the child receives credit for the courses taken. As a matter of best practice, a best interest determination should always be revisited at least ten school days before the end of a major grading period (trimester or semester) to ensure a smooth transition to another school if the decision indicates a change is needed. In addition to benefitting academically from school continuity, during times of transition out of foster care, it is important for youth to be able to maintain connections with their peers, teachers, and other supportive adults at school. A child who remains in a school setting, under these circumstances, may continue to receive transportation services until the educational placement changes.

If the school of enrollment was not a public school when the child was placed in foster care, the district of origin and local DHS are not required to provide transportation to attend the nonpublic school, unless it would have been obligated to provide such transportation pursuant to some other legal authority. Under Iowa Code §280.2, the term "public school" means any school directly supported in whole or in part by taxation. The term "nonpublic school" means any other school which is accredited pursuant to Iowa Code §256.11. In that instance, another party, other than the district of origin, may voluntarily continue to pay for tuition to the nonpublic school. In the absence of tuition or a tuition waiver by the nonpublic school, the district of origin and local DHS shall determine what public school is the appropriate setting to maximize school stability. Transportation to a nonpublic school of origin would be required, if the nonpublic school receives public funding.

2) CHILDREN WITH AN INTRA-DISTRICT FOSTER CARE PLACEMENT ENTRY/CHANGE

Some children entering the foster care system are placed within the district of origin's boundaries, but in a school catchment area different from the school of origin. This scenario would be considered an intra-district foster care placement. If the

child meets legal requirements to receive transportation services, the district of origin will make the needed transportation route adjustments within the district to ensure the child is transported from their foster care placement to the school of origin.

3) CHILDREN WITH A CONTIGUOUS DISTRICT FOSTER CARE PLACEMENT ENTRY/CHANGE

Some children entering the foster care system are placed in a district that shares a border with the district of origin. This scenario would be considered a contiguous district foster care placement. If the child meets legal requirements to receive transportation services, the district of origin will contact the contiguous district to arrange for transportation from the school of origin to the foster care placement. The two districts, in collaboration with local DHS, will arrange how, when, and where the child will be transported based on their local transportation policies and procedures. Before a transportation plan is finalized, the district of origin must ensure local DHS has been provided an opportunity to collaborate on such plan. This collaboration usually occurs during the best interest determination discussion. Any pickup/drop off locations in both the district of origin and the contiguous district should be as close to a direct route between the school of origin and the foster care placement as feasible.

4) CHILDREN WITH A NON-CONTIGUOUS DISTRICT FOSTER CARE PLACEMENT ENTRY/CHANGE

Some children entering the foster care system are placed in a district that does not share a border with the district of origin. This scenario would be considered a non-contiguous district foster care placement. If the child meets legal requirements to receive transportation services, the district of origin will contact the non-contiguous district where the foster care placement resides to arrange for transportation from the school of origin to the foster care placement. The two districts, in collaboration with local DHS, will arrange how, when, and where the child will be transported based on their local transportation policies and procedures. Before a transportation plan is finalized, the district of origin must ensure local DHS has been provided an opportunity to collaborate on such plan. This collaboration usually occurs during the best interest determination discussion. Any pickup/drop off locations in both the district of origin and the non-contiguous district should be as close to a direct route between the school of origin and the foster care placement as feasible.

5) CHILDREN WITH AN OUT OF STATE FOSTER CARE PLACEMENT ENTRY/CHANGE

Some children entering the foster care system are placed in a district located in another state. This scenario would be considered an out of state foster care placement. If the child meets legal requirements to receive transportation services, the district of origin will contact the out of state district where the foster care placement resides to arrange for transportation from the school of origin to the foster care placement. The two districts, in collaboration with local DHS, will arrange how, when, and where the child will be transported based on their local transportation policies and procedures. Before a transportation plan is finalized, the district of origin must ensure local DHS has been provided an opportunity to collaborate on such plan. This collaboration usually occurs during the best interest determination discussion. Any pickup/drop off locations in both the district of origin and the out of state district should be as close to a direct route between the school of origin and the foster care placement as feasible.

6) CHILDREN WITH FOSTER CARE PLACEMENT ENTRY/CHANGE NOT MEETING ANY OTHER TRANSPORTATION CLASSIFICATION

There may be other placement situations not covered by the 5 other transportation classifications discussed above. In these cases, the district of origin should establish the transportation route for children in foster care, if the child meets legal requirements to receive transportation services. In these unique situations, the district of origin and local DHS should contact their state level points of contact to receive assistance.

HOW ADDITIONAL COSTS ARE CALCULATED FOR FOSTER CARE TRANSPORTATION

Below are six transportation classifications for calculating transportation additional costs for children in foster care to remain in their school of origin.

1) CHILDREN NOT REQUIRED TO BE TRANSPORTED AFTER FOSTER CARE PLACEMENT ENTRY/CHANGE

Calculation of Additional Costs:

If a child enters or is placed in foster care and the district of origin and local DHS are not required to transport under ESSA, there will be no additional costs to calculate.

Additional Cost Responsibility:

Since there would be no additional costs to calculate, no one is financially responsible for the additional costs.

2) CHILDREN WITH AN INTRA-DISTRICT FOSTER CARE PLACEMENT ENTRY/CHANGE

Calculation of Additional Costs:

If the child's foster care placement is considered an intra-district placement, there will be no reportable additional costs to calculate because the district of origin must adjust their transportation routes to meet the needs of the child.

Additional Cost Responsibility:

Since there would be no additional costs to calculate, no one is financially responsible for the additional costs.

3) CHILDREN WITH A CONTIGUOUS DISTRICT FOSTER CARE PLACEMENT ENTRY/CHANGE

Calculation of Additional Costs:

Transportation Provided by Van or Car:

In order to determine the additional cost for transportation by van or car, the trip mileage between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will then be multiplied by the number of one way trips per billing cycle and then multiplied by the current federal tax code standard mileage rate to arrive at a mileage cost amount. The current standard mileage rate for 2017 is \$.535/mile. This rate will be updated every January to the most current rate.

Example: The distance from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 25 miles. The number of trips made during this billing cycle is 20. The mileage cost amount would equal \$267.50 (25 miles multiplied by 20 trips multiplied by \$.535).

In addition to the mileage cost amount, an hourly amount of staff time used for the drive between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement to the closest 15 minute increment will be used to calculate the mileage costs. The hourly staff time needed to drive the additional miles will be multiplied by the staff member's hourly salary and benefits and then multiplied by the number of one way trips per billing cycle to arrive at a staff time cost amount.

Example: The staff time required to drive from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 49 minutes. The hourly staff time would be adjusted to 45 minutes. The staff member's hourly salary and benefits is \$15/hour. The number of trips made during this billing cycle is 20. The staff time cost amount would equal \$ 225.00 (.75 multiplied by \$15/hour multiplied by 20 trips).

The total additional cost for transportation by van or car during this billing cycle would equal the sum of the mileage cost amount and the staff time cost amount.

Example: The mileage cost amount would equal \$267.50. The staff time cost amount would equal \$ 225.00. The total additional cost for transportation by van or car during this billing cycle is \$492.50 (\$267.50 plus \$225.00).

Transportation Provided by Yellow Bus:

In order to determine the additional cost for transportation by yellow bus, the trip mileage between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will be multiplied by the number of one way trips per billing cycle and then multiplied by the district of origin's current average cost per mile amount listed in the Annual Transportation Report to arrive at a mileage cost amount. This rate can be found at <https://www.educateiowa.gov/documents/miscellaneous-information/2016/12/2015-2016-annual-transportation-data-iowa-public-schools>.

Example: The distance from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 25 miles. The number of trips made during this billing cycle is 15. The district of origin's current average cost per mile listed on the Annual Transportation Report is \$3.23/mile. The

additional cost for transportation by yellow bus per billing cycle equals \$1,211.25 (25 miles multiplied by 15 trips multiplied by \$3.23).

Transportation Provided by Foster Care Provider or Other Family Member:

In order to determine the additional cost for transportation by care provider or family member, the trip mileage between the school of origin and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will then be multiplied by the number of one way trips per billing cycle and then multiplied by the current federal tax code standard mileage rate to arrive at a mileage cost amount. The current standard mileage rate for 2017 is \$.535/mile. This rate will be updated every January to the most current rate.

Example: The distance from the school of origin to the location of the foster care placement is 28 miles. The number of trips made during this billing cycle is 31. The mileage cost amount would equal \$464.38 (28 miles multiplied by 31 trips multiplied by \$.535).

Transportation Provided by Public/Contracted Transportation System:

In order to determine the additional cost for transportation by public/contracted transportation, the daily cost to use the public/contracted transportation system. This daily cost will then be multiplied by the number of days the student was actually transported to arrive at a public/contracted transportation cost for the billing cycle. This amount will be considered the additional cost for using public/contracted transportation during the billing cycle.

Example: The daily cost to use public transportation system is \$12.50/day. The number of days the student was transported is 33. The public/contracted transportation cost for the billing cycle is \$412.50 (\$12.50/day multiplied by 33 days).

If any entity, other than the district of origin or local DHS, provides reimbursement for some or all of the transportation costs of the child in foster care, the amount of reimbursement shall be deducted from the calculated total additional cost for transportation of a child in foster care. If another individual, other than the district of origin or local DHS, volunteers to provide transportation without reimbursement along the transportation route considered additional mileage, those miles and staff time used shall not be used when calculating additional daily mileage cost amounts and the staff time cost amounts. Lastly, if the district of origin or local DHS is required to provide transportation under another provision of law, those miles and the staff time used shall not be used when calculating additional daily mileage cost amounts and the staff time cost amounts.

Additional Cost Responsibility:

The additional transportation costs calculated for a contiguous district foster care placement is the financial responsibility of the district of origin. The district of origin will collect transportation data identified in the transportation guidance drafted by the Departments of Education and Human Services and on a quarterly basis submit such data on the required form. The Departments will use the data submitted and make reasonable efforts to access federal funds to reimburse the school districts for transportation expenses allowable under Chapter IV-E of the federal Social Security Act. If federal funds are made available, the school district will be reimbursed with the federal funds received under Chapter IV-E of the federal Social Security Act.

4) CHILDREN WITH A NON-CONTIGUOUS DISTRICT FOSTER CARE PLACEMENT ENTRY/CHANGE

Calculation of Additional Costs:

Transportation Provided by Van or Car:

In order to determine the additional cost for transportation by van or car, the trip mileage between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will then be multiplied by the number of one way trips per billing cycle and then multiplied by the current federal tax code standard mileage rate to arrive at a mileage cost amount. The current standard mileage rate for 2017 is \$.535/mile. This rate will be updated every January to the most current rate.

Example: The distance from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 25 miles. The number of trips made during this billing cycle is 20. The mileage cost amount would equal \$267.50 (25 miles multiplied by 20 trips multiplied by \$.535).

In addition to the mileage cost amount, an hourly amount of staff time used for the drive between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement to the closest 15 minute increment will be used to calculate the mileage costs. The hourly staff time needed to drive the additional miles will be multiplied by the staff member's hourly salary and benefits and then multiplied by the number of one way trips per billing cycle to arrive at a staff time cost amount.

Example: The staff time required to drive from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 49 minutes. The hourly staff time would be adjusted to 45 minutes. The staff member's hourly salary and benefits is \$15/hour. The number of trips made during this billing cycle is 20. The staff time cost amount would equal \$ 225.00 (.75 multiplied by \$15/hour multiplied by 20 trips).

The total additional cost for transportation by van or car during this billing cycle would equal the sum of the mileage cost amount and the staff time cost amount.

Example: The mileage cost amount would equal \$267.50. The staff time cost amount would equal \$ 225.00. The total additional cost for transportation by van or car during this billing cycle is \$492.50 (\$267.50 plus \$225.00).

Transportation Provided by Yellow Bus:

In order to determine the additional cost for transportation by yellow bus, the trip mileage between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will be multiplied by the number of one way trips per billing cycle and then multiplied by the district of origin's current average cost per mile amount listed in the Annual Transportation Report to arrive at a mileage cost amount. This rate can be found at <https://www.educateiowa.gov/documents/miscellaneous-information/2016/12/2015-2016-annual-transportation-data-iowa-public-schools>.

Example: The distance from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 25 miles. The number of trips made during this billing cycle is 15. The district of origin's current average cost per mile listed on the Annual Transportation Report is \$3.23/mile. The additional cost for transportation by yellow bus per billing cycle equals \$1,211.25 (25 miles multiplied by 15 trips multiplied by \$3.23).

Transportation Provided by Foster Care Provider or Other Family Member:

In order to determine the additional cost for transportation by care provider or family member, the trip mileage between the school of origin and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will then be multiplied by the number of one way trips per billing cycle and then multiplied by the current federal tax code standard mileage rate to arrive at a mileage cost amount. The current standard mileage rate for 2017 is \$.535/mile. This rate will be updated every January to the most current rate.

Example: The distance from the school of origin to the location of the foster care placement is 28 miles. The number of trips made during this billing cycle is 31. The mileage cost amount would equal \$464.38 (28 miles multiplied by 31 trips multiplied by \$.535).

Transportation Provided by Public/Contracted Transportation System:

In order to determine the additional cost for transportation by public/contracted transportation, the daily cost to use the public/contracted transportation system. This daily cost will then be multiplied by the number of days the student was actually transported to arrive at a public/contracted transportation cost for the billing cycle. This amount will be considered the additional cost for using public/contracted transportation during the billing cycle.

Example: The daily cost to use public transportation system is \$12.50/day. The number of days the student was transported is 33. The public/contracted transportation cost for the billing cycle is \$412.50 (\$12.50/day multiplied by 33 days).

If any entity, other than the district of origin or local DHS, provides reimbursement for some or all of the transportation costs of the child in foster care, the amount of reimbursement shall be deducted from the calculated total additional cost for transportation of a child in foster care. If another individual, other than the district of origin or local DHS, volunteers to provide transportation without reimbursement along the transportation route considered additional mileage, those miles and staff time used shall not be used when calculating additional daily mileage cost amounts and the staff time cost amounts. Lastly, if the district of origin or local DHS is required to

provide transportation under another provision of law, those miles and the staff time used shall not be used when calculating additional daily mileage cost amounts and the staff time cost amounts.

Additional Cost Responsibility:

The additional transportation costs calculated for a non-contiguous district foster care placement is the financial responsibility of DHS and the district of origin. DHS' financial obligation for additional costs of transportation shall not exceed the lesser of actual daily transportation costs incurred by the district of origin or the maximum daily rate. The maximum daily rate is calculated by formula using information listed on the most recent year's "Annual Transportation Data for Iowa Public Schools". The maximum daily rate equals the "State Average Cost per Pupil Transported" multiplied by 15 and divided by 180 school days. The current maximum daily rate for 2017 is \$51.07/day. This rate will be updated every January to the most current rate. On a case-by-case basis, the DE and DHS State level POCs can, through agreement, increase the maximum daily rate DHS is responsible for when the transportation situation warrants greater costs above those that would typically be expected. In addition to the maximum daily rate DHS is responsible for, the Departments will use the data submitted and make reasonable efforts to access federal funds to reimburse the school districts for transportation expenses of eligible children allowable under Chapter IV-E of the federal Social Security Act. If federal funds are made available, the school district will be reimbursed with the federal funds received under Chapter IV-E of the federal Social Security Act.

5) CHILDREN WITH AN OUT OF STATE FOSTER CARE PLACEMENT ENTRY/CHANGE

Calculation of Additional Costs:

Transportation Provided by Van or Car:

In order to determine the additional cost for transportation by van or car, the trip mileage between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will then be multiplied by the number of one way trips per billing cycle and then multiplied by the current federal tax code standard mileage rate to arrive at a mileage cost amount. The current standard mileage rate for 2017 is \$.535/mile. This rate will be updated every January to the most current rate.

Example: The distance from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 25 miles. The number of trips made during this billing cycle is 20. The mileage cost amount would equal \$267.50 (25 miles multiplied by 20 trips multiplied by \$.535).

In addition to the mileage cost amount, an hourly amount of staff time used for the drive between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement to the closest 15 minute increment will be used to calculate the mileage costs. The hourly staff time needed to drive the additional miles will be multiplied by the staff member's hourly salary and benefits and then multiplied by the number of one way trips per billing cycle to arrive at a staff time cost amount.

Example: The staff time required to drive from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 49 minutes. The hourly staff time would be adjusted to 45 minutes. The staff member's hourly salary and benefits is \$15/hour. The number of trips made during this billing cycle is 20. The staff time cost amount would equal \$ 225.00 (.75 multiplied by \$15/hour multiplied by 20 trips).

The total additional cost for transportation by van or car during this billing cycle would equal the sum of the mileage cost amount and the staff time cost amount.

Example: The mileage cost amount would equal \$267.50. The staff time cost amount would equal \$ 225.00. The total additional cost for transportation by van or car during this billing cycle is \$492.50 (\$267.50 plus \$225.00).

Transportation Provided by Yellow Bus:

In order to determine the additional cost for transportation by yellow bus, the trip mileage between the district of origin's established pickup/drop off location on their regular bus route and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will be multiplied by the number of one way trips per billing cycle and then multiplied by the district of origin's current average cost per mile amount listed in the Annual Transportation Report to arrive at a mileage cost amount. This rate can be found at <https://www.educateiowa.gov/documents/miscellaneous-information/2016/12/2015-2016-annual-transportation-data-iowa-public-schools>.

Example: The distance from the district of origin's established pickup/drop off location on the regular bus route to the location of the foster care placement is 25 miles. The number of trips made during this billing cycle is 15. The district of origin's current average cost per mile listed on the Annual Transportation Report is \$3.23/mile. The additional cost for transportation by yellow bus per billing cycle equals \$1,211.25 (25 miles multiplied by 15 trips multiplied by \$3.23).

Transportation Provided by Foster Care Provider or Other Family Member:

In order to determine the additional cost for transportation by care provider or family member, the trip mileage between the school of origin and the location of the foster care placement will be used to calculate the transportation costs. This trip mileage will then be multiplied by the number of one way trips per billing cycle and then multiplied by the current federal tax code standard mileage rate to arrive at a mileage cost amount. The current standard mileage rate for 2017 is \$.535/mile. This rate will be updated every January to the most current rate.

Example: The distance from the school of origin to the location of the foster care placement is 28 miles. The number of trips made during this billing cycle is 31. The mileage cost amount would equal \$464.38 (28 miles multiplied by 31 trips multiplied by \$.535).

Transportation Provided by Public/Contracted Transportation System:

In order to determine the additional cost for transportation by public/contracted transportation, the daily cost to use the public/contracted transportation system. This daily cost will then be multiplied by the number of days the student was actually transported to arrive at a public/contracted transportation cost for the billing cycle. This amount will be considered the additional cost for using public/contracted transportation during the billing cycle.

Example: The daily cost to use public transportation system is \$12.50/day. The number of days the student was transported is 33. The public/contracted transportation cost for the billing cycle is \$412.50 (\$12.50/day multiplied by 33 days).

If any entity, other than the district of origin or local DHS, provides reimbursement for some or all of the transportation costs of the child in foster care, the amount of reimbursement shall be deducted from the calculated total additional cost for transportation of a child in foster care. If another individual, other than the district of origin or local DHS, volunteers to provide transportation without reimbursement along the transportation route considered additional mileage, those miles and staff time used shall not be used when calculating additional daily mileage cost amounts and the staff time cost amounts. Lastly, if the district of origin or local DHS is required to provide transportation under another provision of law, those miles and the staff time used shall not be used when calculating additional daily mileage cost amounts and the staff time cost amounts.

Additional Cost Responsibility:

The additional transportation costs calculated for an out of state district foster care placement is the financial responsibility of DHS and the district of origin. DHS' financial obligation for additional costs of transportation shall not exceed the lesser of actual daily transportation costs incurred by the district of origin or the maximum daily rate. The maximum daily rate is calculated by formula using information listed on the most recent year's "Annual Transportation Data for Iowa Public Schools". The maximum daily rate equals the "State Average Cost per Pupil Transported" multiplied by 20 and divided by 180 school days. The current maximum daily rate for 2017 is \$68.08/day. This rate will be updated every January to the most current rate. On a case-by-case basis, the DE and DHS State level POCs can, through agreement, increase the maximum daily rate DHS is responsible for when the transportation situation warrants greater costs above those that would typically be expected. In addition to the maximum daily rate DHS is responsible for, the Departments will use the data submitted and make reasonable efforts to access federal funds to reimburse the school districts for transportation expenses of eligible children allowable under Chapter IV-E of the federal Social Security Act. If federal funds are made available, the school district will be reimbursed with the federal funds received under Chapter IV-E of the federal Social Security Act.

6) CHILDREN WITH FOSTER CARE PLACEMENT ENTRY/CHANGE NOT MEETING ANY OTHER TRANSPORTATION CLASSIFICATION

There may be other placement situations not covered by the 5 other transportation classifications discussed above. In these cases, the district of origin should establish the transportation route for children in foster care, if the child meets legal requirements to receive transportation services. In these unique situations, the district of origin and local DHS should contact their state level points of contact to receive assistance.

Tracking and Reporting of Additional Costs:

All transportation information collected is subject to audit by the Department of Education and the Department of Human Services. The specific transportation information the district of origin needs to track and report will include some or all of the following:

- School of origin;
- Address of school or origin;
- Address of foster care placement;
- Distance from the school of origin to the foster care placement;
- Transportation classification;
- Means of transportation;
- Number of days transportation was provided;
- Date transportation route was established;
- Date the transportation route ended;
- Additional districts providing transportation;
- Distance from the district of origin's established pickup/drop off location on the regular bus route to the out of state district's established pickup/drop off location on the regular bus route;
- Staff time required to drive from the district of origin's established pickup/drop off location on the regular bus route to the out of state district's established pickup/drop off location on the regular bus route to the closest 15 minute increment;
- School of origin's staff member's hourly salary and benefits when transportation is provided by van or car;
- Individual providing transportation, other than the school of origin or the public transportation system;
- Daily cost of using public transportation system; and
- Transportation costs reimbursed by another entity.

IMMEDIATE AND APPROPRIATE ENROLLMENT

In order to facilitate the educational stability of children receiving foster care services, a school district, upon notification by the local child welfare agency that a child receiving foster care services is transferring to and enrolling in the school district, shall provide for the immediate and appropriate enrollment of the child. The school district shall do the following:

- a. Work with an area education agency child welfare liaison, if such a liaison exists, to develop systems to ease the enrollment transition of a child receiving foster care services to another school.
- b. Develop procedures for awarding credit for coursework, including electives, completed by a child receiving foster care services while enrolled at another school.
 - (1) Credits and grades earned and offered for acceptance shall be based on official transcripts and shall be accepted without validation unless required under the receiving school district's accreditation requirements.
 - (2) If the child earned less than a passing grade for a unit of coursework, the school district may require the child to retake the class in middle or high school. If the school district determines the child's proficiencies in an elementary grade are substantially deficient, the child's parent or guardian shall be notified and intensive instructional services and supports shall be provided if appropriate.
- c. Promote practices that facilitate immediate access by a child receiving foster care services to extracurricular programs, summer programs, and credit transfer services.
- d. Establish procedures to lessen the adverse impact of the enrollment transfer of a child receiving foster care services to another school.
- e. Identify and provide other assistance the district and the local child welfare agency determine is needed.

Children in foster care with recent or multiple school changes may not have the documentation required to enroll in a new school. In addition, failure of schools to promptly transfer records to the new school can lead to further delays in enrollment. These delays can negatively impact attendance and lead to other adverse consequences, such as the child being incorrectly enrolled in classes and not receiving the necessary academic services. When a determination is made that remaining in the school of origin is **NOT** in a child's best interest, school districts must ensure that a child in foster care is immediately

enrolled in his or her new school, even if the student does not have the required documentation. The enrolling school must then contact the student's school of origin for relevant records. School districts should review and revise policies and practices to remove any barriers to immediate enrollment and records transfer for children in foster care.

Immediate enrollment means that a child in foster care should be enrolled in a new school as soon as possible in order to prevent educational discontinuity. "Immediate" means as soon as possible after the best interest determination has been made, and without regard to whether records, forms, tuition, fees, or costs typically associated with school enrollment have been provided. In addition, enrollment must not be denied or delayed for any population of students because documents normally required for enrollment have not been provided. The enrolling school must immediately contact a child's school of origin to obtain the relevant records and documentation, and the school of origin should immediately transfer those records. Each school district shall ensure that it transfers records for within-district school transfers, that it transmits records to another district if the child's best interests requires attendance in a school in another school district, and that it requests records for children who are coming from another school district. A school district or an accredited nonpublic school, upon notification by an child welfare agency that a child in foster care is transferring enrollment from the school district or accredited nonpublic school to another school district or accredited nonpublic school, shall promptly provide for the transfer of all of the educational records of the child not later than five school days after receiving the notification.

In addition to ensuring immediate enrollment, school districts also need to ensure "appropriate" enrollment, which includes ensuring children in foster care are regularly attending and fully participating in school and that their educational needs are being met. School districts should also take affirmative steps to revise policies that are barriers to enrollment and attendance for children in foster care. In considering the appropriateness of enrollment for a child with a disability, the District shall ensure compliance with the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, as well as relevant state statutes and rules, including that the appropriateness of such enrollment is determined by the IEP team required by the applicable statute. In considering the appropriateness of enrollment for a child who is an English learner, the District shall ensure compliance with Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974 (EEOA), as well as relevant state statutes and rules.

Records to Transfer:

The following records should be transferred between the school district and local DHS when the child is placed in foster care and will not be attending the school of origin:

- Cumulative education file, if the child is attending a public school. If not a public school, at least a copy of the child's transcript should be sent;
- Copy of the current Individualized Education Plan (IEP), if the child is eligible for special education services;
- Copy of Section 504 Plan, if the child is eligible for accommodations under Section 504;
- Copy of health records kept by the school; and
- Any other pertinent information needed to assist the attending school in providing appropriate educational services.

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)/HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

Overview of Family Educational Rights and Privacy Act (FERPA)

FERPA protects the privacy of students' "education records." In addition, FERPA applies to educational agencies and institutions that receive funds under any program administered by the U.S. Department of Education. This includes virtually all public schools and school districts. If an educational agency or institution receives funds under one or more of these programs, FERPA applies to the recipient as a whole, including each of its components. Private and religious schools at the elementary and secondary level generally do not receive funds from the Department of Education and are, therefore, not subject to FERPA. Note that a private school is not made subject to FERPA just because its students and teachers receive services from a local school district or State educational agency that receives funds from the Department. The school itself must receive funds from a program administered by the Department to be subject to FERPA. An educational agency or institution subject to FERPA may not have a policy or practice of disclosing the education records of students, or personally identifiable information from education records, without a parent or eligible student's written consent.

Under FERPA, parents and eligible students have the right to inspect and review the student's education records and to seek to have them amended in certain circumstances. The term "education records" is broadly defined to mean those records that are: (1) directly related to a student, and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. At the elementary or secondary level, a student's health records, including immunization records, maintained by an educational agency or institution subject to FERPA, as well as records maintained by a school nurse, are "education records" subject to FERPA. In addition, records that schools maintain on special education students, including records on services provided to students under the Individuals with Disabilities Education Act (IDEA), are "education records" under FERPA. This is because these records are (1) directly related to a student, (2) maintained by the school or a party acting for the school, and (3) not excluded from the definition of "education records."

In addition, the Uninterrupted Scholars Act (USA) amended FERPA in two ways. First, the USA amended FERPA to permit educational agencies and institutions to disclose a student's education records, without parental consent, to a caseworker or other representative of a State or local child welfare agency or tribal organization authorized to access a student's case plan "when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student." Second, the USA also allowed educational agencies and institutions to disclose a student's education records pursuant to a judicial order without requiring additional notice to the parent by the educational agency or institution in specified types of judicial proceedings in which a parent is involved.

Overview of Health Insurance Portability and Accountability Act (HIPAA)

HIPAA "covered entities" are health plans, health care clearinghouses, and health care providers that transmit health information in electronic form in connection with covered transactions. "Health care providers" include institutional providers of health or medical services, such as hospitals, as well as non-institutional providers, such as physicians, dentists, and other practitioners, along with any other person or organization that furnishes, bills, or is paid for health care in the normal course of business. The HIPAA Privacy Rule requires covered entities to protect individuals' health records and other identifiable health information by requiring appropriate safeguards to protect privacy, and setting limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The rule also gives patients' rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.

FREQUENTLY ASKED QUESTIONS

Educational Stability:

1) To which children do the new requirements to ensure the educational stability of children in foster care apply?

The requirements for ensuring educational stability for children in foster care apply to all children meeting the definition of Foster Care and who, upon entering Foster Care, have been attending a recognized public school. During Iowa's implementation phase of these requirements, "foster care" means 24-hour substitute care for children placed away from their parents or guardians, when the child is classified as a Child in Need of Assistance (CINA), and for whom Department of Human Services (DHS) has placement and care responsibility of children. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, unlicensed relative and suitable other family home, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.

2) What are the responsibilities of a school district in ensuring the educational stability of children in foster care?

A school district must collaborate with local DHS staff to implement the educational stability provisions. LEAs should work closely with their local DHS counterparts to tailor processes and procedures to the unique local context. For example, the school district should decide with local DHS what documentation or records should be shared, establish criteria to be used in any decision-making process, and identify a structure, such as regularly scheduled meetings, in which relevant individuals

can participate in a particular process. These processes and procedures should meet the guidelines established by the Department of Education and the Department of Human Services.

3) What responsibilities does a child welfare agency have in ensuring the educational stability of children in foster care?

The local DHS social worker for a child in foster care is required to work with the child and family to develop a plan for, among other things, ensuring the educational stability of the child. This plan must include: 1) an assurance that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child was enrolled at the time of placement; and 2) an assurance that local DHS has coordinated with the school district(s) to ensure the child can remain in that school, or if remaining in that school is not in the child's best interest, an assurance that the child will be enrolled immediately in a new school and that the new school obtains relevant academic and other records. These assurances relate to the circumstances at the time of the child's initial placement into foster care, as well as each time a child moves to a different foster care placement. The local DHS social worker notifies the School of Origin that a child is entering foster care or changing foster care placements, in order to engage education professionals in a dialogue about the best interest of the child, including what is the best education setting for that child, and if transportation or other services are needed, how to go about getting that set up.

The educational stability plan must be a written part of the child's case record, which is jointly developed with the child's parents no later than 60 days after a child's removal from the home, and every six months thereafter. Local DHS has the flexibility to determine which factors will be examined in determining whether remaining in the school of origin is in the child's best interest, but the cost of school transportation should not be a factor in determining the best interest of the child for the purposes of school selection.

4) Do the educational stability provisions apply to preschool-age children in foster care?

If a school district offers a public preschool education and the child is attending the public preschool when they are placed in foster care or the foster care placement changes, a school district must meet the requirements for children in foster care in the preschool, including ensuring that a child in foster care remains in his or her preschool of origin, unless a determination is made it is not in the child's best interest. When the foster care child is attending a nonpublic preschool receiving public funds, the requirements for children in foster care in the preschool must also be met.

5) What special considerations and legal requirements should be taken into account when implementing the educational stability provisions for children with disabilities under the IDEA?

IDEA Part B (IDEA or Part B) is the Federal law that assists States, and through them, local school districts in providing special education and related services to children with disabilities. Under Part B, school districts must make a free appropriate public education (FAPE) available to all eligible children with disabilities in the least restrictive environment (LRE). FAPE, under IDEA, includes the provision of special education and related services at no cost to the parents in accordance with a properly developed individualized education program (IEP). LRE means that to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that the child cannot be educated satisfactorily in regular classes with the provision of supplementary aids and services. While IDEA presumes that the first placement option considered for each child with a disability is the regular classroom with appropriate supplementary aids and services, there is no one size fits all approach. School districts must make available a range of placement options to meet the needs of children with disabilities for special education and related services, including regular classes, special classes, separate schools, home instruction, and instruction in hospitals and institutions.

Under the IDEA, each child's educational placement decision must be made by the IEP team (a group of knowledgeable persons, including the child's parents). This group may also include staff from a child welfare agency. IDEA requires that the educational placement of each eligible child with a disability, including children with disabilities in foster care, be determined at least annually, and be based on the child's IEP in accordance with the child's individual needs. Unless the child's IEP requires some other arrangement, the child is educated in the school that he or she would attend if not disabled.

If the child's IEP team makes the determination FAPE cannot be provided in a specific educational setting, an alternative educational placement meeting FAPE should be chosen.

6) What special considerations and legal requirements should be taken into account when implementing the educational stability provisions for children who are English learners?

Some children in foster care are also English learners (ELs)—students identified as having limited English proficiency in speaking, listening, reading, or writing English through procedures established by school districts. Title VI27 and the Equal Educational Opportunities Act of 1974 (EEOA) require public schools to ensure that all EL students, including EL students in foster care, can participate meaningfully and equally in educational programs. In order to meet their obligations, school districts must:

- Identify and assess all potential EL students in a timely, valid, and reliable manner;
- Provide EL students with a language assistance program that is educationally sound and proven successful;
- Sufficiently staff and support the language assistance programs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students;
- Ensure that EL students with disabilities are evaluated in a timely and appropriate manner for special education and disability-related services and that their language needs are considered in these evaluations and delivery of services;
- Meet the needs of EL students who opt out of language assistance programs;
- Monitor and evaluate EL students in language assistance programs to ensure their progress with respect to acquiring English proficiency and grade level core content, exit EL students from language assistance programs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred in the language assistance program have been remedied;
- Evaluate the effectiveness of a school district's language assistance program(s) to ensure that EL students in each program acquire English proficiency and that each program was reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and
- Ensure meaningful communication with limited English proficient (LEP) parents.

School of Origin:

7) What is a school of origin?

The school of origin is the school in which a child is enrolled at the time of placement in foster care. A school district must ensure that a child in foster care enrolls or remains in his or her school of origin unless a determination is made that it is not in the child's best interest. If a child's foster care placement changes, the school of origin would then be considered the school in which the child is enrolled at the time of the placement change.

8) What is the duration of time that a child is protected under the school of origin provision? What happens once a child exits foster care?

School districts must collaborate with local DHS to ensure that each child in foster care remains in his or her school of origin, unless that setting is determined not to be in their best interest of the child, for the duration of the child's time in foster care. While these requirements no longer apply once a student has exited foster care, the school district should consider allowing the child to remain in school until it is deemed to be in the best interest of the child to change schools. A factor to consider in making this decision is how the educational calendars align between the two schools. Changes in educational placement should occur at the end of a semester or school year to allow the child a smooth transition between educational settings and to ensure the child receives credit for the courses taken. In addition to benefitting academically from school continuity, during times of transition out of foster care, it is important for youth to be able to maintain connections with their peers, teachers, and other supportive adults at school. A child who remains in a school setting, under these circumstances, is entitled to continue to receive transportation services until the educational placement changes.

9) Can a school, other than a public school, be the school of origin?

Children in foster care whose school of enrollment when they entered foster care is not a public school imposes no obligation on the school district to pay private school tuition or to provide transportation to attend the nonpublic school, unless it would have been obligated to provide such transportation pursuant to some other legal authority. In that instance, local DHS or the child's family may voluntarily continue to pay tuition for nonpublic school attendance. In the absence of tuition or a waiver of tuition by the nonpublic school, the school district and local DHS shall determine what public school is the appropriate setting to maximize school stability.

Best Interest Determination:

10) What factors should be considered in determining whether remaining in a child's school of origin is in his or her best interest, as it relates to ensuring school stability?

The school district and local DHS must ensure that in determining whether it is in a child's best interest to remain in his or her school of origin that all factors relating to a child's best interest are taken into consideration. These factors include the appropriateness of the current educational setting and proximity of placement. School districts and local DHS have flexibility in determining which factors should be considered as part of evaluating the appropriateness of the current educational setting, as well as any additional factors that pertain to a child's best interest. Though the specific factors may vary depending on context, in order to make a holistic and well-informed determination, a variety of student-centered factors should be considered. These factors may include:

- Preferences of the child; Preferences of the child's parent(s) or education decision maker(s);
- The child's attachment to the school, including meaningful relationships with staff and peers;
- Placement of the child's sibling(s);
- Influence of the school climate on the child, including safety;
- The availability and quality of the services in the school to meet the child's educational and socioemotional needs;
- History of school transfers and how they have impacted the child;
- How the length of the commute would impact the child, based on the child's developmental stage;
- Proximity to other services the child needs;
- Expected length of placement and the child's permanency plan;
- Ability of the school to implement any required safety plan for the child, such as a court ordered no contact order;
- Whether the child is a student with a disability under the IDEA who is receiving special education and related services or a student with a disability under Section 504 who is receiving special education or related aids and services and, if so, the availability of those required services in a school other than the school of origin; and
- Whether the child is an EL and is receiving language services, and, if so, the availability of those required services in a school other than the school of origin, consistent with Title VI and the EEOA.

11) What process should school districts and local DHS use when making the best interest determination?

The law does not prescribe a specific process, but encourages the Department of Education to work with the Department of Humans Services to establish guidelines to be used by school districts in coordination with local DHS to guide the decision making process. For example, school districts could use a checklist to guide the discussion of the advantages and disadvantages of staying in the school of origin or moving to a new school. Once a determination is made in collaboration with local DHS, the school district should provide the decision in writing to all relevant parties.

12) Who should be involved in making a best interest determination?

The school district point of contact and the local DHS social worker, for the child in foster care, are the primary leaders of the decision making process. The DHS point of contact is also a main party when making the best interest determination. While the child or parent(s) are not always directly involved, their opinions should always be considered, when the best interest determination is being made. The representative from the school of origin should be knowledgeable about the child and able to provide feedback on significant relationships that the child may have formed with staff and peers and how changing schools would impact his or her academic, social, and emotional well-being. The DHS social worker for the child may be aware of family history, medical needs of the child, history of trauma to the child or other information. Other

knowledgeable parties, such as the child, depending on age, foster parents, biological parents when appropriate, education decision maker(s), and other relatives may provide valuable perspectives on which school the child should attend during his or her time in foster care.

If a child has an IEP or a Section 504 plan, then the relevant school staff members would also need to participate in the best interest decision process. If the child is an EL, the local school EL staff members should be invited to participate in the best interest decision process.

13) How long do school districts and local DHS have to make the best interest determination?

The school district and local DHS should make this determination as quickly as possible in order to prevent educational discontinuity for the child. The best interest determination is a child specific, case-by-case determination of whether remaining in the school of origin is not the in the child's best interest. The best interest determination shall be made when the placement resource is identified and prior to the foster care placement, except in the case of an emergency removal. In the case of an emergency removal, the best interest determination shall be made within 5 business days of emergency foster care placement. To the extent feasible and appropriate, the LEA must ensure that a child remains in his or her school of origin while this determination is being made.

In addition, changes in educational placement typically occur at the end of a semester or school year to allow the child a smooth transition between educational settings and to ensure the child receives credit for the courses taken. As a matter of best practice, a best interest determination should always be revisited at least ten school days before the end of a major grading period (trimester or semester) to ensure a smooth transition to another school if the decision indicates a change is needed.

14) What special considerations and legal requirements must be taken into account when making a best interest determination for students with disabilities?

Eligible students with disabilities retain their right to receive a free appropriate public education in the least restrictive environment. When making decisions regarding the educational placement of students with disabilities under IDEA or Section 504, the school district and local DHS must ensure all required special educational and related services and supports are provided in the least restrictive placement where the child's unique needs, as described in the student's IEP or Section 504 plan, can be met.

15) What special considerations and legal requirements must be taken into account when making a best interest determination for English learner students who are required to receive language services under Title VI and the EEOA?

School districts and local DHS must identify and assess all potential EL students, and provide all EL students, including EL students in foster care, with a language assistance program that is educationally sound and proven successful. When a best interest determination is made for an EL student in foster care, the both parties must ensure that it complies with its obligations under Title VI and the EEOA.

Dispute Resolution:

16) If parties cannot come to an agreement regarding the best interest determination, which entity should be the final decision maker?

The school district and local DHS should make every effort to reach agreement regarding the appropriate school placement of children in foster care. However, if there is disagreement regarding school placement for a child in foster care, local DHS should be considered the final decision maker in making the best interest determination. Local DHS is uniquely positioned to assess vital non-educational factors such as safety, sibling placements, the child's permanency goal, and the other components of the case plan. Local DHS also has the authority, capacity, and responsibility to collaborate with and gain information from multiple parties, including parents, children, schools, and the court in making these decisions.

17) How should disagreements over the best interest determination among parents, education decision makers, and other important stakeholders be handled?

Since the best interest determination process will ideally represent input from multiple parties, a clear dispute resolution process may help to clarify a complicated process and enable parents and families to address disagreements about school placement in an orderly manner. The dispute resolution process should be fair to all parties and reached in an expeditious manner. Once the decision is made, a written explanation should be provided to all involved parties. The dispute resolution process for Iowa is outlined in the “Best Interest Determination” guidance document.

18) Must a child remain in his or her school of origin while disputes are being resolved?

To the extent feasible and appropriate, the school district and local DHS must ensure that a child remains in his or her school of origin while the disputes are being resolved to minimize disruptions and reduce the number of moves between schools.

Point of Contact:

19) Should Area Education Agencies (AEAs) designate a point of contact?

If an AEA operates a school, they should designate a point of contact for purposes of implementation of ESSA Foster Care. The individual responsible for this role should provide the Department of Education with their contact information so it can be made public.

20) What are examples of the roles and responsibilities of the Department of Education Point of Contact (POC)?

The roles and responsibilities of the Department of Education POC includes:

- Coordinating with the partner POC to issue joint guidance for the implementation of these provisions, which should include:
 - Establishment of uniform criteria around notifications and response to a child entering foster care, as well as the best interest determination factors;
 - Establishment of guidelines for transportation procedures, including how transportation will be addressed across district and State lines and what should be included in local transportation procedures;
- Facilitating data sharing with the Department of Human Services, consistent with FERPA, HIPAA, and other Federal or State privacy laws, regulations, and policies;
- Monitoring school districts to ensure compliance with requirements at the local level; and
- Providing professional development opportunities and technical assistance for school district and local DHS POCs and other personnel regarding school stability and educational supports for children in foster care, as needed.

21) What are examples of the roles and responsibilities of the school district POC?

The roles and responsibilities of the school district POC includes:

- Coordinating with local DHS staff and the local DHS POC on the implementation of these provisions;
- Participating in the process of making the best interest determination;
- Documenting the best interest determination;
- Facilitating the transfer of records and immediate enrollment;
- Facilitating data sharing with the child welfare agencies, consistent with FERPA and other privacy protocols;
- Coordinating local transportation;
- Managing best interest determinations and transportation costs disputes;
- Ensuring that children in foster care are enrolled in and regularly attending school; and
- Providing professional development and training to school staff on these provisions and educational needs of children in foster care, as needed.

22) What are some examples of the roles and responsibilities of a local DHS POC?

Roles and responsibilities of the local DHS POC include:

- Serving as one of the primary contacts between children in foster care and school staff, district personnel, and other service providers;
- Coordinating with the corresponding school district POC on implementation of these provisions including immediate enrollment;
- Establishing a process to notify the school district when a child has been placed in foster care or when there has been a foster care placement change;
- Establishing a process for coordinating on best interest determinations with the school district;
- Facilitating transfer of records including immunizations, medical records, and copies of IEPs and Section 504 Plans;
- Working with school districts to ensure that children in foster care are immediately enrolled in school, and to collaborate with the school district for transportation services;
- Managing best interest determination and transportation costs agreements between the school district and local DHS;
- Coordinating with the school district regarding data sharing for children in foster care, consistent with FERPA and the confidentiality of information provisions in the IDEA; AND
- Coordinating services so that children in foster care can access early educational services for which they are eligible, including Head Start and Early Head Start, home visiting, and preschool programs administered by the school district, and screening and referrals to health, mental health, dental, and other appropriate services.

Transportation:

23) What is the Department of Education and the Department of Human Service’s role with respect to the provision of transportation for a child in foster care to his or her school of origin?

Although the development and implementation of transportation procedures for children in foster care are the responsibility of school district, the Department of Education should work collaboratively with the Department of Human Services to provide uniform statewide guidelines or procedures to school districts for how the transportation provisions of the ESSA should be implemented by school districts consistently throughout the State. In addition, the Department of Education duties include monitoring and oversight of local school district transportation procedures.

24) What is a school district’s role in providing transportation for a child in foster care to his or her school of origin?

A school district must collaborate with local DHS to develop and implement clear procedures governing how transportation to maintain children in foster care in their schools of origin, when in their best interest, will be provided, arranged, and funded for the duration of the child’s time in foster care. These procedures must ensure that—

- Children in foster care needing transportation to their schools of origin will promptly receive that transportation in a cost effective manner and in accordance with section 475(4)(A) of the Social Security Act; and
- If there are additional costs incurred in providing transportation to the school of origin, the school district and local DHS understand which entity has financial responsibility for the additional costs incurred in transporting the student to the school of origin.

Since children may be placed in foster care placements across district, county, or State lines, coordination among multiple school districts and local DHS agencies may be necessary. Thus, the school districts and local DHS agencies should follow the guidelines established by the Departments of Education and Human Services when inter-district and inter-State placements are made.

25) What is the role of local DHS in providing transportation for a child in foster care to his or her school of origin?

A child welfare agency administering plans under Title IV-E and IV-B of the Social Security Act must ensure the educational stability plan of each child in foster care includes an assurance that the child welfare agency has coordinated with the appropriate school district(s) to ensure the child can remain in the school of origin. Given the shared responsibility of local DHS and school districts to ensure educational stability, local DHS should continue to collaborate with the appropriate school district(s) in exploring the full range of options for providing and funding transportation to maintain a child in his or her school of origin, consistent with the child’s educational stability plan. While the district of origin is required to arrange

transportation, the local DHS social worker is required to work with the team to keep the child in the school of origin, unless that school setting is not in the best interest of the child, which includes ensuring transportation as necessary. It is expected the local DHS social worker and the district POC will have conversations about reducing transportation costs, when transportation is being provided. In addition, local DHS may explore whether caretakers can assist with transportation, via phone calls, team meetings, or through other means, but cannot require a caretaker or service provider to transport the child.

26) What is the duration of time the school district and local DHS must provide a child with transportation services? What happens once a child exits foster care?

The school district and local DHS must ensure that a child in foster care needing transportation to the school of origin receives such transportation for the duration of the time the child is in foster care. When a child exits foster care, the school district and local DHS should consider continuing the child's educational stability, consider each child's best interest on a case-by-case basis, and continue to ensure transportation is provided through the end of the school year, if needed, when remaining in the school of origin would be in the child's best interest.

27) What does it mean to provide transportation to the school of origin in a "cost-effective manner?"

In determining whether transportation is "cost-effective," the school district and local DHS must consider the reasonableness of those costs. In doing so, the school district and local DHS should consider a variety of factors, including cost, distance, and length of travel, as well as whether the mode of transportation is developmentally appropriate for the child.

The school district and local DHS should also consider whether transportation can be provided for minimal or no additional costs. Examples of no-cost or low-cost options for transportation that school districts and local DHS could explore include whether:

- The child may be dropped off at a school bus stop near the existing transportation system for the school of origin;
- Public transportation options exist, if the child is of an appropriate age and has or is able to acquire the skills to utilize such options;
- The foster parents or other family member(s) are willing and able to transport the child to school;
- There are pre-existing bus routes or stops close to the new foster care placement that cross district boundaries; and
- The child is already eligible for transportation covered by other programs. For example, IDEA funds may be used to pay for transportation services if the child's IEP Team determines transportation is a related service that is required in order for a child with disabilities in foster care to receive FAPE.

28) What constitutes "additional costs" incurred in providing transportation to maintain children in foster care in their schools of origin?

The rules for determining the additional costs can be found in the guidance provided by the Departments of Education and Human Services.

29) If a school district does not provide transportation to children who are not in foster care, is it required to transport children in foster care to their schools of origin?

Yes. A school district must ensure transportation is provided for children in foster care consistent with the procedures developed by the Departments of Education and Human Services. These requirements apply whether or not the school district already provides transportation for children who are not in foster care. Even with this being said, there are times children in foster care aren't required to be transported. Examples of these occasions are discussed in the transportation sections in this document.

30) What funding sources may be used to pay for additional transportation costs?

In addition to State and local funds that may be available for providing transportation, certain federal funds may be available to cover additional transportation costs to maintain children in foster care in their schools of origin. Title IV- E Federal funds are available to assist with additional transportation costs for children who are eligible for Title IV-E foster care maintenance payments. Specifically, the cost of reasonable travel for a child in foster care to remain in his or her school of origin may be

included in the Title IV-E foster care maintenance payment. Child welfare agencies receiving Title IV-E funds have discretion in determining what is considered reasonable travel, and may take into account factors such as cost, distance, and duration of travel. As with any cost enumerated in the definition of foster care maintenance payments, the child welfare agency may decide which of the enumerated costs to include in a child's foster care maintenance payment. In addition, transportation costs associated with the child's attendance at his or her school of origin are allowable foster care administrative costs under Title IV-E. Although Title IV-E reimbursement is available for the Federal portion of these costs, child welfare agencies receiving Title IV-E funds are responsible for the non-federal portion.

In addition, a school district may use Title I funds to pay for additional costs needed to transport children in foster care to their schools of origin. However, funds reserved for comparable services for homeless children and youth may not be used to provide transportation needed to maintain children in foster care in their schools of origin.

31) Is the school district required to transport children in foster care to and from their schools of origin while transportation cost disputes are being resolved?

The school district must ensure that children in foster care needing transportation to the school of origin promptly receive such transportation in a cost-effective manner. Therefore, the school district must provide or arrange for adequate and appropriate transportation to and from the school of origin while any disputes are being resolved.

32) When does the requirement to transport the student in foster care from the foster care placement to the school of origin end?

The student placed in foster care may continue to be transported from the foster care placement to the school of origin until the student is exited from foster care, the student's foster care placement changes, or when local DHS and the district point of contact determine it is no longer in the best interest of the student to attend the school of origin. The decision made in the original best interest determination to periodically revisit to ensure it is still in the student's best interest to continue to attend the school of origin. Possible times the revisiting of the best interest determination could be made include the end of the semester or end of the school year.

Immediate Enrollment and Records Transfer:

33) What does it mean for a child to be "immediately enrolled" in a new school?

Immediate enrollment means that a child in foster care should be enrolled in a new school as soon as possible in order to prevent educational discontinuity. In addition, enrollment must not be denied or delayed for any population of students because documents normally required for enrollment have not been provided. The enrolling school must immediately contact a child's school of origin to obtain the relevant records and documentation, and the school of origin should immediately transfer those records. Iowa Code §280.29 requires records transfer within five days of any change in school attendance. In addition to ensuring immediate enrollment, school districts should also ensure that children in foster care are regularly attending and fully participating in school and that their educational needs are being met.

Student Data and Privacy:

34) How will school districts be notified regarding which students are in foster care? What other information may be useful for LEAs regarding children in foster care?

Local DHS must notify the school district when students will be entering foster care or there is a change foster care placement. This information may need to be shared across districts and multiple local DHS agencies. The school district should coordinate with local DHS to establish formal mechanisms to ensure that they are promptly notified when a child enters foster care or changes foster care placements. When working to ensure the educational stability of children in foster care, local DHS may need to share additional information with the school district. Depending on welfare laws, and the purpose of sharing the information, it may include: name of the child, type of living arrangement, number of placement changes, and name of the education decision maker. Local DHS may also determine what other child specific information should be shared with the school district, as well as the procedures for notification.

35) Can local educators and DHS employees discuss a child's educational needs?

The DHS social worker is obligated by federal law to notify the school district POC of a child entering or changing placements in foster care, in order for local DHS and the district POC to ensure education stability for the child. Therefore, the social worker may share certain protected information with the district POC and other educators or service providers who need to know, without release from the parent or guardian, in order to ensure the appropriate education setting and provide or arrange transportation, as necessary.

The social worker should be allowed access to all education records of a child entering or in foster care. The district need not require a release of information from the parent or guardian. Education professionals, including but not limited to the district POC, may share, with other education professionals and DHS staff, student records and other information necessary to make education and transportation arrangements. Access to information is allowed in order to fulfill certain education stability requirements in federal law. The access is limited to "need to know" information pertaining to education placement and transportation. It is also limited to access by the professionals directly involved in the case or education of a child.

FERPA/HIPAA:

36) Does the HIPAA Privacy Rule apply to an elementary or secondary school?

Generally, no. In most cases, the HIPAA Privacy Rule does not apply to an elementary or secondary school because the school either: (1) is not a HIPAA covered entity or (2) is a HIPAA covered entity but maintains health information only on students in records that are by definition "education records" under FERPA and, therefore, is not subject to the HIPAA Privacy Rule.

37) How does FERPA apply to health records on students maintained by elementary or secondary schools?

At the elementary or secondary school level, students' immunization and other health records that are maintained by a school district or individual school, including a school-operated health clinic, that receives funds under any program administered by the U.S. Department of Education are "education records" subject to FERPA, including health and medical records maintained by a school nurse who is employed by or under contract with a school or school district. Some schools may receive a grant from a foundation or government agency to hire a nurse. Notwithstanding the source of the funding, if the nurse is hired as a school official (or contractor), the records maintained by the nurse or clinic are "education records" subject to FERPA.

Parents have a right under FERPA to inspect and review these health and medical records because they are "education records" under FERPA. In addition, these records may not be shared with third parties without written parental consent unless the disclosure meets one of the exceptions to FERPA's general consent requirement. For instance, one of these exceptions allows schools to disclose a student's health and medical information and other "education records" to teachers and other school officials, without written consent, if these school officials have "legitimate educational interests" in accordance with school policy. Another exception permits the disclosure of education records, without consent, to appropriate parties in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

38) Does FERPA or HIPAA apply to elementary or secondary school student health records maintained by a health care provider that is not employed by a school?

If a person or entity acting on behalf of a school subject to FERPA, such as a school nurse that provides services to students under contract with or otherwise under the direct control of the school, maintains student health records, these records are education records under FERPA, just as they would be if the school maintained the records directly. This is the case regardless of whether the health care is provided to students on school grounds or off-site. As education records, the information is protected under FERPA and not HIPAA.

Some outside parties provide services directly to students and are not employed by, under contract to, or otherwise acting on behalf of the school. In these circumstances, these records are not "education records" subject to FERPA, even if the services are provided on school grounds, because the party creating and maintaining the records is not acting on behalf of the school. With respect to HIPAA, even where student health records maintained by a health care provider are not

education records protected by FERPA, the HIPAA Privacy Rule would apply to such records only if the provider conducts one or more of the HIPAA transactions electronically.

39) Are there circumstances in which the HIPAA Privacy Rule might apply to an elementary or secondary school?

There are some circumstances in which an elementary or secondary school would be subject to the HIPAA Privacy Rule, such as where the school is a HIPAA covered entity and is not subject to FERPA. A school that is not subject to FERPA and is a HIPAA covered entity must comply with the HIPAA Privacy Rule with respect to any individually identifiable health information it has about students and others to whom it provides health care. The only exception would be where the school, despite not being subject to FERPA, has education records on one or more students to whom it provides services on behalf of a school or school district that is subject to FERPA. In this exceptional case, the education records of only those publicly placed students held by the private school would be subject to FERPA, while the remaining student health records would be subject to the HIPAA Privacy Rule.

40) Where the HIPAA Privacy Rule applies, does it allow a health care provider to disclose protected health information (PHI) about a troubled teen to the parents of the teen?

In most cases, yes. If the teen is a minor, the HIPAA Privacy Rule generally allows a covered entity to disclose PHI about the child to the child's parent, as the minor child's personal representative, when the disclosure is not inconsistent with state or other law. In some cases, such as when a minor may receive treatment without a parent's consent under applicable law, the parents are not treated as the minor's personal representative. In such cases where the parent is not the personal representative of the teen, other HIPAA Privacy Rule provisions may allow the disclosure of PHI about the teen to the parent. For example, if a provider believes the teen presents a serious danger to self or others, the HIPAA Privacy Rule permits a covered entity to disclose PHI to a parent or other person(s) if the covered entity has a good faith belief that: (1) the disclosure is necessary to prevent or lessen the threat and (2) the parent or other person(s) is reasonably able to prevent or lessen the threat. The disclosure also must be consistent with applicable law and standards of ethical conduct.

In addition, the Privacy Rule permits covered entities to share information that is directly relevant to the involvement of a family member in the patient's health care or payment for care if, when given the opportunity, the patient does not object to the disclosure. Even when the patient is not present or it is impracticable, because of emergency circumstances or the patient's incapacity, for the covered entity to ask the patient about discussing his or her care or payment with a family member, a covered entity may share this information with the family member when, in exercising professional judgment, it determines that doing so would be in the best interest of the patient.

41) Where the HIPAA Privacy Rule applies, does it allow a health care provider to disclose protected health information (PHI) about a student to a school nurse or physician?

Yes. The HIPAA Privacy Rule allows covered health care providers to disclose PHI about students to school nurses, physicians, or other health care providers for treatment purposes, without the authorization of the student or student's parent.

42) Under FERPA, may an eligible student inspect and review his or her "treatment records"?

Under FERPA, treatment records, by definition, are not available to anyone other than professionals providing treatment to the student, or to physicians or other appropriate professionals of the student's choice. However, this does not prevent an educational institution from allowing a student to inspect and review such records. If the institution chooses to do so, though, such records are no longer excluded from the definition of "education records" and are subject to all other FERPA requirements.

43) Under FERPA, may an eligible student's treatment records be shared with parties other than treating professionals?

As explained previously, treatment records, by definition, are not available to anyone other than professionals providing treatment to the student, or to physicians or other appropriate professionals of the student's choice. However, this does not prevent an educational institution from using or disclosing these records for other purposes or with other parties. If the

institution chooses to do so, a disclosure may be made to any party with a prior written consent from the eligible student or under any of the disclosures permitted without consent.

44) Under what circumstances does FERPA permit an eligible student's treatment records to be disclosed to a third-party health care provider for treatment?

An eligible student's treatment records may be shared with health care professionals who are providing treatment to the student, including health care professionals who are not part of or not acting on behalf of the educational institution, as long as the information is being disclosed only for the purpose of providing treatment to the student. In addition, an eligible student's treatment records may be disclosed to a third-party health care provider when the student has requested that his or her records be "reviewed by a physician or other appropriate professional of the student's choice." In either of these situations, if the treatment records are disclosed to a third-party health care provider that is a HIPAA covered entity, the records would become subject to the HIPAA Privacy Rule. The records at the educational institution continue to be treatment records under FERPA, so long as the records are only disclosed by the institution for treatment purposes to a health care provider or to the student's physician or other appropriate professional requested by the student. If the disclosure is for purposes other than treatment, an eligible student's treatment record only may be disclosed to a third party as an "education record," that is, with the prior written consent of the eligible student or if one of the exceptions to FERPA's general consent requirement is met.

45) Does FERPA or HIPAA apply to records on students who are patients at a university hospital?

Patient records maintained by a hospital affiliated with a university that is subject to FERPA are not typically "education records" or "treatment records" under FERPA because university hospitals generally do not provide health care services to students on behalf of the educational institution. Rather, these hospitals provide such services without regard to the person's status as a student and not on behalf of a university. Thus, assuming the hospital is a HIPAA covered entity, these records are subject to all of the HIPAA rules, including the HIPAA Privacy Rule. However, in a situation where a hospital does run the student health clinic on behalf of a university, the clinic records on students would be subject to FERPA, either as "education records" or "treatment records," and not subject to the HIPAA Privacy Rule.

46) Where the HIPAA Privacy Rule applies, does it permit a health care provider to disclose protected health information (PHI) about a patient to law enforcement, family members, or others if the provider believes the patient presents a serious danger to self or others?

The HIPAA Privacy Rule permits a covered entity to disclose PHI, including psychotherapy notes, when the covered entity has a good faith belief that the disclosure: (1) is necessary to prevent or lessen a serious and imminent threat to the health or safety of the patient or others and (2) is to a person(s) reasonably able to prevent or lessen the threat. This may include, depending on the circumstances, disclosure to law enforcement, family members, the target of the threat, or others who the covered entity has a good faith belief can mitigate the threat. The disclosure also must be consistent with applicable law and standards of ethical conduct. For threats or concerns that do not rise to the level of "serious and imminent," other HIPAA Privacy Rule provisions may apply to permit the disclosure of PHI.

47) What is the Family Educational Rights and Privacy Act (FERPA) and to which entities does it apply?

FERPA protects the privacy of student education records and gives parents certain rights with respect to their children's education records, including the right to inspect and review their children's education records. Under FERPA, a parent generally must provide a signed and dated written consent before a school discloses personally identifiable information from the student's education records. The rights accorded to, and the consent required of, parents under FERPA transfer from the parents to the student when the student becomes an eligible student. An "eligible student" is a student who has reached the age of 18 or is attending a postsecondary institution at any age. FERPA applies to all educational agencies and institutions that receive funds under any program administered by the Secretary of Education. In general, when we refer to "local educational agencies" or "schools," we mean "educational agencies and institutions" that are subject to FERPA. Private schools at the elementary and secondary levels generally do not receive funds from the Department of Education; unless they receive such funds, they are not subject to FERPA.

48) Does the USA permit the disclosure of personally identifiable information from education records, without consent, only for those children in foster care placement?

Yes. The USA permits, but does not require, educational agencies and institutions to disclose personally identifiable information from the education records of students in foster care placement without getting prior consent of the parent or eligible student. The educational agency or institution may disclose personally identifiable information to an agency caseworker or other representative who has the right to access a student's case plan if the child welfare agency is legally responsible for the care and protection of the student.

49) Does the USA permit educational agencies and institutions to disclose personally identifiable information from education records to child welfare agencies, without consent, when the student reaches 18 years of age or attends a postsecondary institution but remains in foster care placement?

Yes. Once a student reaches 18 years old or attends a postsecondary institution at any age, the student becomes an eligible student under FERPA and the rights under FERPA transfer to that student. The USA governs the disclosure of personally identifiable information from the education records of an eligible student in the same fashion as it governs the disclosure of personally identifiable information from the education records of a student under the age of 18.

50) Does the USA require educational agencies and institutions to disclose personally identifiable information from education records to child welfare agencies whenever requested?

No. The USA created an exception that permits, but does not require, local education agencies and schools to disclose personally identifiable information from the education records of a student who is in foster care placement to child welfare agency. Under FERPA, a local education agency or school may choose to disclose all or part of the education records it maintains on a student who is in foster care placement.

51) Must educational agencies and institutions record any disclosure of personally identifiable information from education records to the child welfare agency?

Yes. FERPA requires recordkeeping on requests for access to and disclosures of education records. FERPA regulations state that an educational agency or institution: (1) shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student; and (2) shall maintain the record with the education records of the student as long as the records are maintained. Thus, if a school discloses education records to the child welfare agency, the school must be compliant with the recordation requirements under FERPA and also must include: (1) the parties who have requested or received personally identifiable information from the education records, and (2) the legitimate interests the parties had in requesting or obtaining the information. If an educational agency or institution discloses personally identifiable information from education records with the understanding that further disclosures will be made, the educational agency's or institution's record of disclosure must include the names and legitimate interests of the additional parties.

52) May a child welfare agency redisclose personally identifiable information from education records to other individuals or entities?

Yes, in some cases. The USA does permit a child welfare agency to redisclose personally identifiable information from education records for a limited purpose. The USA provides that redisclosures may only be made to an individual or entity "engaged in addressing the student's education needs" and authorized by such agency or organization to receive such disclosure and such disclosure must be consistent with the State or tribal laws applicable to protecting the confidentiality of a student's education records.

53) Must the child welfare agency record any redisclosure of personally identifiable information from education records made by the welfare agency to an individual or entity?

No. FERPA does not require the child welfare agency to record any redisclosure of personally identifiable information from education records that it may make to an individual or entity, such as a contractor providing services to address a student's education needs.

54) May a child welfare agency that receives personally identifiable information from education records under the USA exception use the personally identifiable information for purposes other than addressing the education needs of the child?

No. The USA is clear that the personally identifiable information from education records disclosed to the child welfare agency under the USA exception must only be used to address the educational needs of children in foster care placement.

55) When a local education agency discloses personally identifiable information from education records to a child welfare agency under the USA exception, may the local education agency and the child welfare agency collaborate to conduct an audit or evaluation of an education program or child welfare program using the education records disclosed under the USA exception?

No. The personally identifiable information from education records disclosed to the child welfare agency under the USA exception must only be used for the purpose of addressing the education needs of children in foster care placement. Thus, the personally identifiable information from education records disclosed under the USA exception may not be used for any other purpose.

56) Are schools required to have written agreements with the child welfare agency prior to disclosing personally identifiable information from education records to the welfare agency?

No. The written agreement requirements in the FERPA regulations do not apply to a disclosure of personally identifiable information from education records made under the USA exception by a school.

APPENDIX